IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Revn. No. 2189 of 2006

DATE OF DECISION : 20.11.2006

Sarv Mittar Bhandari

.... PETITIONER

Versus

State of Punjab

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Navjeet Sodhi, Advocate,
for the petitioner.

Mr. N.S. Gill, AAG, Punjab.

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This revision petition has been filed by Sarv Mittar Bhandari against the order dated 13.10.2006, passed by Judge, Special Court, Gurdaspur, whereby the application filed by the petitioner for release of his bullet motor cycle bearing registration No. PB-06-E-4726 on sapurdari has been dismissed.

2. I have heard counsel for the parties and gone through the impugned order.

3. In this case, the aforesaid vehicle was recovered from the possession of accused Deepak Bhandari, who is son of the petitioner. In this case, intoxicating powder is alleged to have been recovered from the petitioner and FIR No. 28 dated 31.5.2006 was registered at Police Station Dorangla under Sections 21/22/61/85 of the NDPS Act. As per the report of the police, the petitioner, who is father of accused Deepak Bhandari, is the original owner of the vehicle in question.

4. Counsel for the petitioner contends that the petitioner who is

father of the accused in the case is the registered owner of the motor cycle. He submits that the conclusion of the trial in the aforesaid FIR will take a long time and in case, the motor cycle is not released, it will not only damage its condition, but the petitioner will face difficulty in his day-to-day functioning. He further submits that the petitioner is ready to give an undertaking that as and when the Court requires the aforesaid vehicle, he will produce the same in the same condition. Counsel has relied upon a decision of the Supreme Court in **Sunderbhai Ambalal Desai** v. **State of Gujarat,** 2003 (1) RCR (Crl.) 380 (SC) and a decision of this Court in **Roop Chand and Company** v. **State of Punjab,** 1996 (1) RCR (Criminal) 401.

5. Undisputedly, the trial in the aforesaid FIR is still pending before the trial court. The question of confiscation of the vehicle in question will be considered along with the main case. At present, the vehicle is standing in the police station. No useful purpose will be served, if it is allowed to remain in the police station and it will also result into its damage.

6. Thus, keeping in view the aforesaid facts and the law laid down by the Supreme Court in **Sunderbhai's case** (supra) and in view of the undertaking given by the petitioner, as indicated above, it will be in the interest of justice if the said vehicle is ordered to be released on sapurdari to the petitioner on his furnishing proper undertaking.

7. Accordingly, this revision petition is allowed, the impugned order dated 13.10.2006, passed by Judge, Special Court, Gurdaspur, is set aside and the motor cycle bearing registration No. PB-06-E-4726 is ordered to be released on sapurdari to the petitioner on his furnishing personal bond in the sum of Rs. 35,000/- with one surety in the like amount with an undertaking to the effect that he shall not sell or alienate it, shall not change its colour or condition and shall produce it in the same condition at his own cost as and when the trial court requires it.

November 20, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**